



European Legal Studies Institute
Lehrstuhl für Europäisches und
Polnisches Privatrecht sowie Rechtsvergleichung
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Implementation of the Consumer Credit Directive (2008/48/EG)

Research Study



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Introduction

1. General information on the study
2. General observations as regards the „formal“ implementation of the Directive
3. Analysis of selected aspects of the Directive
4. Extension of the scope of application to credit agreements falling outside the scope of the Directive



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General information

- Subject-matter of the study
- Methodology
- Choice of Member States

General observation

- State of implementation (Table 3, p. 17 of the study)
- Reasons for the late implementation and main difficulties implementing the Directive

Selected provisions of the Directive

1. Fully harmonised provisions

- SECCI
- Contractual information to be written into the credit agreement
- Right of withdrawal
- Conditions for early repayment
- Calculation method for the APR

Selected provisions of the Directive

2. Provisions with a wide margin of appreciation

- Margin of appreciation to adapt a manner by which and the extent to which assistance is given
- Margin of appreciation to determine the extent to which and under which circumstances remedies are available under article 15 (2) (2)
- Margin of appreciation to lay down rules on penalties

Selected provisions of the Directive

3. Options

- Article 2 (5), (6) (scope)
- Articles 4 (2) (c), 6 (2) and 10 (5) (f) (APR and overdraft facilities)
- Article 14 (2) and (6) (right of withdrawal)
- Article 16 (4) (a) and (b) (early repayment)

Selected provisions of the Directive

4. Selected „new“ regulations

- Advertising requirements
- Sufficient assessment of the consumer's creditworthiness



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Selected provisions of the Directive

5. Provisions/ terms requiring interpretation

- “In good time” according to article 5 (1)
- “adequate explanations” in to article 5 (6)

Extension of the scope of application

- In 9 of 14 Member States covered the scope of application has been extended to other credit agreements
- In Germany the personal scope of application has been extended

Extension of the scope of application

Further extension concerns credit agreements as excluded by article 2 (2), particularly to:

- credit agreements secured on property, article 2 (2) (a)
- agreements the purpose of which is to finance the acquisition or retention of property rights, article 2 (2) (b)
- credit agreements without a minimum/ maximum limit with respect to the total amount of the credit, article 2 (2) (c)
- hiring or leasing agreements in the sense of article 2 (2) (d)
- overdraft facility in the sense of article 2 (2) (e)

Extension of the scope of application

Further extension concerns credit agreements as excluded by article 2 (2), particularly to:

- credits granted free of interest and without any other charges and credit agreements under the terms of which the credit has to be repaid within three months, article 2 (2) (f)
- credit agreements which are concluded with investment firms or credit institutions according to article 2 (2) (h)
- credit agreements which are the outcome of a settlement reached in a court or before another statutory authority, article 2 (2) (i)
- credit agreements upon the conclusion of which the consumer is requested to deposit an item as security, article 2 (2) (k) and credit agreements concluded by organisations in the sense of article 2 (5)



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**Thank you very much for your
attention**